

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MELODY LOUISE OLMAN,

Civ. No. 06-6070-HO

Plaintiff,

ORDER

v.

LOUIS THOMAS HANSELMANN, et al.,

Defendants.

Background

By order dated January 23, 2007, the court denied plaintiff's motion for protective order and ordered plaintiff and defense counsel to agree, within ten days, to a date, time and place for plaintiff's deposition. According to defendants' filings, plaintiff responded to defense counsel one day after the expiration of the ten-day period, plaintiff would not agree to a date, time and location for her deposition, and plaintiff advised she would file a further motion and request for evidentiary hearing regarding her previously denied motion for protective order. Defendants filed motions for sanctions, including

dismissal and payment of expenses, under Rule 37(b) of the Federal Rules of Civil Procedure. Plaintiff filed a motion for reconsideration of the order denying her motion for protective order. Plaintiff filed a subsequent request to dismiss her motion for reconsideration.

Discussion

In her most recent filing, plaintiff represents that remission of a medical condition allows her "to entertain a deposition by defendants," and that she advised defendants that her deposition should not last more than two hours, considering the simple facts of the case. Docket Entry [#103] filed March 15, 2007. In a previous filing, plaintiff declared that she is destitute. Docket Entry [#72] filed November 27, 2006. In light of her pro se status, declaration of indigence and recently-stated ability to participate in her deposition, the court will afford plaintiff a final chance to avoid sanctions by participating in her deposition.

Conclusion

Based on the foregoing, plaintiff's request to dismiss her motion for reconsideration [#103] is granted; plaintiff's motion for reconsideration [#97] is withdrawn; plaintiff's motion for order of default [#34] is denied; defendant Ban and Kehoe's amended motion for sanctions [#96] is denied; defendant Myers and Wingard's motion for sanctions [#94] is denied; defendant Ban and

Kehoe's motion for sanctions [#92] is denied as moot. Within fourteen days of the date of this order, plaintiff and counsel for defendants shall agree to a date, time and place for plaintiff's deposition. The deposition is limited to one day of seven hours, unless plaintiff and defense counsel agree otherwise. Upon motion, existing deadlines may be modified if necessary to accommodate plaintiff's deposition. Failure by plaintiff to comply with this order or to complete her deposition may result in dismissal of the case.

IT IS SO ORDERED.

DATED this 10th day of April, 2007.

s/ Michael R. Hogan
United States District Judge